

AMENDED IN SENATE APRIL 25, 2011

**SENATE BILL**

**No. 539**

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**Introduced by Senator Price**

February 17, 2011

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An act to amend Sections 2701, 2708, 2841, 2859, 2862, 2866, 2872.2, 2878.1, 2880, 2881, 2881.1, 2882, 2883, 4501, ~~and~~ 4503, 4510.1, 4511, 4511.2, 4521.2, 4530, 4531, and 4532 of, and to repeal and amend Section 2847 of, the Business and Professions Code, relating to nursing.

LEGISLATIVE COUNSEL'S DIGEST

SB 539, as amended, Price. Nursing.

**Existing**

(1) *Existing* law, until January 1, 2012, creates within the Department of Consumer Affairs, the Board of Registered Nursing and a Board of Vocational Nursing and Psychiatric Technicians of the State of California. Existing law, until January 1, 2012, requires those boards to select an executive officer to perform duties delegated by each board. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of those provisions until January 1, 2016, and would specify that these boards would be subject to review by the appropriate policy committees of the Legislature.

(2) *Existing* law requires an applicant for a licensed vocational nurse license or a psychiatric technician's license to have successfully completed specified courses of studies from a school accredited by the Board of Vocational Nursing and Psychiatric Technicians. Existing law requires an employer of a licensed vocational nurse or psychiatric

*technician to report to the board the suspension or termination for cause of the licensed vocational nurse or psychiatric technician.*

*This bill would instead require an applicant for a licensed vocational nurse license or a psychiatric technician's license to have successfully completed specified courses of studies from a school approved by the board. The bill would also require an employer of a licensed vocational nurse or psychiatric technician to report to the board the resignation for cause of the licensed vocational nurse or psychiatric technician.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2701 of the Business and Professions  
2 Code is amended to read:

3 2701. (a) There is in the Department of Consumer Affairs the  
4 Board of Registered Nursing consisting of nine members.

5 (b) Within the meaning of this chapter, board, or the board,  
6 refers to the Board of Registered Nursing. Any reference in state  
7 law to the Board of Nurse Examiners of the State of California or  
8 California Board of Nursing Education and Nurse Registration  
9 shall be construed to refer to the Board of Registered Nursing.

10 (c) This section shall remain in effect only until January 1, 2016,  
11 and as of that date is repealed, unless a later enacted statute, that  
12 is enacted before January 1, 2016, deletes or extends that date.  
13 Notwithstanding any other provision of law, the repeal of this  
14 section renders the board subject to review by the appropriate  
15 policy committees of the Legislature.

16 SEC. 2. Section 2708 of the Business and Professions Code is  
17 amended to read:

18 2708. (a) The board shall appoint an executive officer who  
19 shall perform the duties delegated by the board and who shall be  
20 responsible to it for the accomplishment of those duties.

21 (b) The executive officer shall be a nurse currently licensed  
22 under this chapter and shall possess other qualifications as  
23 determined by the board.

24 (c) The executive officer shall not be a member of the board.

25 (d) This section shall remain in effect only until January 1, 2016,  
26 and as of that date is repealed, unless a later enacted statute, that  
27 is enacted before January 1, 2016, deletes or extends that date.

1 SEC. 3. Section 2841 of the Business and Professions Code is  
2 amended to read:

3 2841. (a) There is in the Department of Consumer Affairs a  
4 Board of Vocational Nursing and Psychiatric Technicians of the  
5 State of California, consisting of 11 members.

6 (b) Within the meaning of this chapter, “board,” or “the board,”  
7 refers to the Board of Vocational Nursing and Psychiatric  
8 Technicians of the State of California.

9 (c) This section shall remain in effect only until January 1, 2016,  
10 and as of that date is repealed, unless a later enacted statute, that  
11 is enacted before January 1, 2016, deletes or extends that date.  
12 Notwithstanding any other provision of law, the repeal of this  
13 section renders the board subject to review by the appropriate  
14 policy committees of the Legislature.

15 SEC. 4. Section 2847 of the Business and Professions Code,  
16 as amended by Section 6 of Chapter 33 of the Statutes of 2008, is  
17 repealed.

18 SEC. 5. Section 2847 of the Business and Professions Code,  
19 as added by Section 6 of Chapter 35 of the Statutes of 2008, is  
20 amended to read:

21 2847. (a) The board shall select an executive officer who shall  
22 perform duties as are delegated by the board and who shall be  
23 responsible to it for the accomplishment of those duties.

24 (b) The person selected to be the executive officer of the board  
25 shall be a duly licensed vocational nurse under this chapter, a duly  
26 licensed professional nurse as defined in Section 2725, or a duly  
27 licensed psychiatric technician. The executive officer shall not be  
28 a member of the board.

29 (c) With the approval of the Director of Finance, the board shall  
30 fix the salary of the executive officer.

31 (d) The executive officer shall be entitled to traveling and other  
32 necessary expenses in the performance of his or her duties. He or  
33 she shall make a statement, certified before a duly authorized  
34 person, that the expenses have been actually incurred.

35 (e) This section shall remain in effect only until January 1, 2016,  
36 and as of that date is repealed, unless a later enacted statute, that  
37 is enacted before January 1, 2016, deletes or extends that date.

38 SEC. 6. Section 2859 of the Business and Professions Code is  
39 amended to read:

1     2859. The practice of vocational nursing within the meaning  
2 of this chapter is the performance of services requiring those  
3 technical, manual skills acquired by means of a course in an  
4 ~~accredited~~ *approved* school of vocational nursing, or its equivalent,  
5 practiced under the direction of a licensed physician, or registered  
6 professional nurse, as defined in Section 2725 of the ~~Business and~~  
7 ~~Professions Code~~.

8     A vocational nurse, within the meaning of this chapter, is a  
9 person who has met all the legal requirements for a license as a  
10 vocational nurse in this ~~State~~ *state* and who for compensation or  
11 personal profit engages in vocational nursing as the same is  
12 hereinabove defined.

13     *SEC. 7. Section 2862 of the Business and Professions Code is*  
14 *amended to read:*

15     2862. Vocational nursing services may be rendered by a student  
16 enrolled in an ~~accredited~~ *approved* school of vocational nursing  
17 when these services are incidental to his or her course of study.

18     *SEC. 8. Section 2866 of the Business and Professions Code is*  
19 *amended to read:*

20     2866. An applicant for a licensed vocational nurse license shall  
21 comply with each of the following:

- 22     (a) Be at least 17 years of age.  
23     (b) Have successfully completed at least an approved course of  
24 study through the 12th grade or the equivalent thereof as specified  
25 by the board.  
26     (c) Have successfully completed the prescribed course of study  
27 in an ~~accredited~~ *approved* school of vocational nursing or have  
28 graduated from a school which, in the opinion of the board,  
29 maintains and gives a course which is equivalent to the minimum  
30 requirements for an ~~accredited~~ *approved* school of vocational  
31 nursing in this state.

32     (d) Not be subject to denial of licensure under Section 480.

33     *SEC. 9. Section 2872.2 of the Business and Professions Code*  
34 *is amended to read:*

35     2872.2. An applicant for license by examination shall submit  
36 a written application in the form prescribed by the board.

37     Provided that the application for licensure by examination is  
38 received by the board no later than four months after completion  
39 of a board ~~accredited~~ *approved* nursing program and approval of  
40 the application, the board may issue an interim permit authorizing

1 the applicant to practice vocational nursing pending the results of  
2 the first licensing examination, or for a period of nine months,  
3 whichever occurs first.

4 If the applicant passes the examination, the interim permit shall  
5 remain in effect until an initial license is issued by the board or  
6 for a maximum period of six months after passing the examination,  
7 whichever occurs first. If the applicant fails the examination, the  
8 interim permit shall terminate upon notice by certified mail, return  
9 receipt requested, or if the applicant fails to receive the notice,  
10 upon the date specified in the interim permit, whichever occurs  
11 first.

12 A permittee shall function under the supervision of a licensed  
13 vocational nurse or a registered nurse, who shall be present and  
14 available on the premises during the time the permittee is rendering  
15 professional services. The supervising licensed vocational nurse  
16 or registered nurse may delegate to the permittee any function  
17 taught in the permittee's basic nursing program.

18 An interim permittee shall not use any title or designation other  
19 than vocational nurse interim permittee or "V.N.I.P."

20 *SEC. 10. Section 2878.1 of the Business and Professions Code*  
21 *is amended to read:*

22 2878.1. (a) If a licensed vocational nurse has knowledge that  
23 another person has committed any act prohibited by Section 2878,  
24 the licensed vocational nurse shall report this information to the  
25 board in writing and shall cooperate with the board in furnishing  
26 information or assistance as may be required.

27 (b) Any employer of a licensed vocational nurse shall report to  
28 the board the suspension or termination for cause, *or resignation*  
29 *for cause*, of any licensed vocational nurse in its employ. In the  
30 case of licensed vocational nurses employed by the state, the report  
31 shall not be made until after the conclusion of the review process  
32 specified in Section 52.3 of the California Code of Regulations  
33 and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194. This  
34 required reporting shall not constitute a waiver of confidentiality  
35 of medical records. The information reported or disclosed shall be  
36 kept confidential except as provided in subdivision (c) ~~of Section~~  
37 ~~800 of the Business and Professions Code~~ and shall not be subject  
38 to discovery in civil cases.

39 (c) For purposes of the section, "suspension or, termination for  
40 cause" ~~is or~~ *"resignation for cause"* are defined as suspension or,

1 termination, *or resignation* from employment for any of the  
2 following reasons:

3 (1) Use of controlled substances or alcohol to the extent that it  
4 impairs the licensee's ability to safely practice vocational nursing.

5 (2) Unlawful sale of a controlled substance or other prescription  
6 items.

7 (3) Patient or client abuse, neglect, physical harm, or sexual  
8 contact with a patient or client.

9 (4) Falsification of medical records.

10 (5) Gross negligence or incompetence.

11 (6) Theft from patients or clients, other employees, or the  
12 employer.

13 (d) Failure of an employer to make a report required by this  
14 section is punishable by an administrative fine not to exceed ten  
15 thousand dollars (\$10,000) per violation.

16 (e) Pursuant to Section 43.8 of the Civil Code, no person shall  
17 incur any civil penalty as a result of making any report required  
18 by this chapter.

19 (f) The board shall implement this section contingent upon the  
20 necessary funding in the annual Budget Act.

21 (g) *For purposes of this section, "employer" includes*  
22 *employment agencies and nursing registries.*

23 *SEC. 11. Section 2880 of the Business and Professions Code*  
24 *is amended to read:*

25 2880. The board shall prepare and maintain a list of ~~accredited~~  
26 *approved* schools of vocational nursing in this ~~State~~ *state* whose  
27 graduates, if they have the other necessary qualifications provided  
28 in this chapter, shall be eligible to apply for a license to practice  
29 vocational nursing in this State.

30 *SEC. 12. Section 2881 of the Business and Professions Code*  
31 *is amended to read:*

32 2881. An ~~accredited~~ *approved* school of vocational nursing is  
33 one which has been approved by the Board of Vocational Nursing  
34 and Psychiatric Technicians, gives a course of instruction in  
35 vocational nursing of not less than 1530 hours or 50 semester units  
36 approved by the board pursuant to Section 2882 whether the same  
37 be established by the State Board of Education, other educational  
38 institutions, or other public or private agencies or institutions and  
39 is affiliated or conducted in connection with one or more hospitals.

1 One hour of instruction for purposes of computing the total hours  
2 of instruction or for calculating semester units as specified in this  
3 section shall consist of not less than 50 minutes of actual class  
4 time.

5 *SEC. 13. Section 2881.1 of the Business and Professions Code*  
6 *is amended to read:*

7 2881.1. The board shall deny the application for ~~accreditation~~  
8 *approval* made by, and shall revoke the ~~accreditation~~ *approval*  
9 given to, any school of vocational nursing that does not give to  
10 student applicants credit, in the field of nursing, for previous  
11 education and the opportunity to obtain credit for other acquired  
12 knowledge by the use of challenge examinations or other methods  
13 of evaluation.

14 The board shall prescribe, by regulation, the education for which  
15 credit is to be given and the amount of credit that is to be given  
16 for each type of education, including the amount of credit to be  
17 given to a certified nurse assistant, a nurse assistant who has  
18 provided direct nursing services in health facilities, and an applicant  
19 who has successfully completed equivalent courses offered by a  
20 secondary school that is ~~accredited~~ *approved* by the State  
21 Department of Education in any state or by a nationally recognized  
22 regional accrediting body. These courses shall be assessed for  
23 equivalency by the vocational nursing school.

24 *SEC. 14. Section 2882 of the Business and Professions Code*  
25 *is amended to read:*

26 2882. The course of instruction of an ~~accredited~~ *approved*  
27 school of vocational nursing shall consist of not less than the  
28 required number of hours of instruction in such subjects as the  
29 board may from time to time by regulation determine, together  
30 with the required number of hours in the care of medical, surgical,  
31 obstetrical patients, sick children, and such other clinical experience  
32 as from time to time may be determined by the board.

33 The board shall, by regulation, provide for the approval of  
34 courses of instruction expressed in hours of instruction, or academic  
35 units, or which require satisfactory demonstration of skills and  
36 behavioral competencies.

37 *SEC. 15. Section 2883 of the Business and Professions Code*  
38 *is amended to read:*

39 2883. It shall be the duty of the board, through an official  
40 representative, to inspect all schools of vocational nursing in this

1 state at such times as the board shall deem necessary. Written  
2 reports of the representative's visits shall be made to the board,  
3 which shall thereupon approve ~~as accredited~~ *such the* schools of  
4 nursing ~~as that~~ meet the requirements provided by the board.

5 Upon receiving the report of the representative, if the board  
6 determines that any ~~accredited~~ *approved* school of vocational  
7 nursing is not maintaining the standard required by the board,  
8 notice thereof in writing specifying the defect or defects shall be  
9 immediately given to the school. If the defects are not corrected  
10 within a reasonable time, the school of nursing may be removed  
11 from the ~~accredited~~ *approved* list and notice thereof in writing  
12 given to it.

13 ~~SEC. 6.~~

14 *SEC. 16.* Section 4501 of the Business and Professions Code  
15 is amended to read:

16 4501. (a) "Board," as used in this chapter, means the Board  
17 of Vocational Nursing and Psychiatric Technicians of the State of  
18 California.

19 (b) This section shall remain in effect only until January 1, 2016,  
20 and as of that date is repealed, unless a later enacted statute, that  
21 is enacted before January 1, 2016, deletes or extends that date.

22 ~~SEC. 7.~~

23 *SEC. 17.* Section 4503 of the Business and Professions Code  
24 is amended to read:

25 4503. (a) The board shall administer and enforce this chapter.

26 (b) This section shall remain in effect only until January 1, 2016,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2016, deletes or extends that date.

29 *SEC. 18. Section 4510.1 of the Business and Professions Code*  
30 *is amended to read:*

31 4510.1. An applicant for license by examination shall submit  
32 a written application in the form prescribed by the board. Provided  
33 that the application for licensure is received by the board no later  
34 than four months after completion of a board ~~accredited~~ *approved*  
35 psychiatric technician program and approval of the application,  
36 the board may issue an interim permit authorizing the applicant to  
37 practice all skills included in the permittee's basic course of study,  
38 pending the results of the first licensing examination, or for a period  
39 of nine months, whichever occurs first.



1 A permittee shall function under the supervision of a licensed  
2 psychiatric technician or a registered nurse, who shall be present  
3 and available on the premises during the time the permittee is  
4 rendering professional services. The permittee may perform any  
5 function taught in the permittee's basic psychiatric technician  
6 program.

7 If the applicant passes the examination, the interim permit shall  
8 remain in effect until an initial license is issued by the board or  
9 for a maximum period of six months after passing the examination,  
10 whichever occurs first. If the applicant fails the examination, the  
11 interim permit shall terminate upon notice by certified mail, return  
12 receipt requested, or if the applicant fails to receive the notice,  
13 upon the date specified in the interim permit, whichever occurs  
14 first. An interim permittee shall not use any title or designation  
15 other than psychiatric technician interim permittee or "P.T.I.P."

16 *SEC. 19. Section 4511 of the Business and Professions Code*  
17 *is amended to read:*

18 4511. An applicant for a psychiatric technician's license shall  
19 have the following qualifications:

- 20 (a) Be at least 18 years of age.
- 21 (b) Have successfully completed an approved general education  
22 course of study through the 12th grade or the equivalent thereof  
23 as determined by the board.
- 24 (c) Have successfully completed (1) a prescribed course of study  
25 and training in a school-~~accredited~~ *approved* by the board, which  
26 course of study and training shall combine the nursing knowledge  
27 and skills necessary for the care of any ill person and in addition  
28 those special skills necessary for the care of the mentally disabled  
29 and the developmentally disabled, or (2) a course of study and  
30 training which, together with previously acquired training or  
31 experience, is determined by a school-~~accredited~~ *approved* by the  
32 board to be equivalent in academic credits to its regular program  
33 for psychiatric technician training, or (3) have completed a course  
34 of study and training which in the opinion of the board is equivalent  
35 to the minimum requirements of an-~~accredited~~ *approved* program  
36 for psychiatric technicians in the state. Clinical inpatient experience  
37 shall be an integral part of any such prescribed or equivalent course  
38 of study and training.
- 39 (d) Have committed no act which, if committed by a licensed  
40 psychiatric technician, would be ground for disciplinary action.

1     *SEC. 20. Section 4511.2 of the Business and Professions Code*  
2     *is amended to read:*

3     4511.2. The board shall deny the application for ~~accreditation~~  
4     ~~approval~~ made by, and shall revoke the ~~accreditation approval~~  
5     given to, any psychiatric technician school that does not give to  
6     student applicants credit, in the fields of nursing and psychiatric  
7     technician practice, for previous education and the opportunity to  
8     obtain credit for other acquired knowledge by the use of challenge  
9     examinations or other methods of evaluation.

10    The board shall prescribe, by regulation, the education for which  
11    credit is to be given and the amount of credit that is to be given  
12    for each type of education, including the amount of credit to be  
13    given to a psychiatric technician assistant, a certified nurse  
14    assistant, a nurse assistant who has provided direct nursing services  
15    in health facilities, and an applicant who has successfully  
16    completed equivalent courses offered by a secondary school that  
17    is accredited by the State Department of Education in any state or  
18    by a nationally recognized, regional accrediting body. These  
19    courses shall be assessed for equivalency by the psychiatric  
20    technician school.

21    *SEC. 21. Section 4521.2 of the Business and Professions Code*  
22    *is amended to read:*

23    4521.2. (a) If a psychiatric technician has knowledge that  
24    another person has committed any act prohibited by Section 4521,  
25    the psychiatric technician shall report this information to the board  
26    in writing and shall cooperate with the board in furnishing  
27    information or assistance as may be required.

28    (b) Any employer of a psychiatric technician shall report to the  
29    board the suspension or termination for cause, *or resignation for*  
30    *cause*, of any psychiatric technician in their employ. In the case  
31    of psychiatric technicians employed by the state, the report shall  
32    not be made until after the conclusion of the review process  
33    specified in Section 52.3 of Title 2 of the California Code of  
34    Regulations and *Skelly v. State Personnel Bd.* (1975) 15 Cal.3d  
35    194. The reporting required herein shall not constitute a waiver of  
36    confidentiality of medical records. The information reported or  
37    disclosed shall be kept confidential except as provided in  
38    subdivision (c) ~~of Section 800 of the Business and Professions~~  
39    ~~Code~~, and shall not be subject to discovery in civil cases.

(c) For purposes of this section, “suspension or termination for cause” ~~is or~~ *“resignation for cause”* are defined as suspension ~~or~~, termination, *or resignation* from employment for any of the following reasons:

(1) Use of controlled substances or alcohol to such an extent that it impairs the licensee’s ability to safely practice as a psychiatric technician.

(2) Unlawful sale of controlled substances or other prescription items.

(3) Patient or client abuse, neglect, physical harm, or sexual contact with a patient or client.

(4) Falsification of medical records.

(5) Gross negligence or incompetence.

(6) Theft from patients or clients, other employees, or the employer.

(d) Failure of an employer to make a report required by this section is punishable by an administrative fine not to exceed ten thousand dollars (\$10,000) per violation.

(e) Pursuant to Section 43.8 of the Civil Code, no person shall incur any civil penalty as a result of making any report required by this chapter.

(f) The board shall implement this section contingent upon necessary funding being provided in the annual Budget Act.

(g) *For purposes of this section, “employer” includes employment agencies and nursing registries.*

*SEC. 22. Section 4530 of the Business and Professions Code is amended to read:*

4530. The board shall prepare and maintain a list of ~~accredited~~ *approved* schools which offer an ~~accredited~~ *approved* program for psychiatric technicians.

*SEC. 23. Section 4531 of the Business and Professions Code is amended to read:*

4531. The course of instruction of an ~~accredited~~ *approved* school shall consist of not less than the number of hours or semester units of instruction required for the other program administered by the board. The subjects of instruction shall include the principles of the care of the mentally disabled and the developmentally disabled. Clinical inpatient experience shall be an integral part of that prescribed or equivalent course of study and training. The experience shall be obtained in a state hospital, except where the

1 board finds that the requirement is not feasible due either to the  
2 distance of a state hospital from the school or the unavailability,  
3 as determined by the *State* Department of Developmental Services  
4 or the *State* Department of Mental Health, of state hospital clinical  
5 training placements.

6 *SEC. 24. Section 4532 of the Business and Professions Code*  
7 *is amended to read:*

8 4532. The board shall provide for the periodic inspection of  
9 all psychiatric technician schools in this ~~State~~ *state*. Written reports  
10 of the inspection shall be made to the board, which shall then  
11 approve ~~as accredited~~ the schools ~~which~~ *that* meet the standards  
12 prescribed by it.

13 If the board determines from a report that any ~~accredited~~  
14 *approved* school is not maintaining its prescribed standards, it shall  
15 immediately give the school a notice in writing specifying the  
16 defect. If the defect is not corrected the board shall, after written  
17 notice, remove the school from the ~~accredited~~ *approved* list.